

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA HIGHER EDUCATION SERVICES OFFICE

In the Matter of the Private Career School
License of the Alexander Institute

**FINDINGS OF FACT,
CONCLUSIONS,
AND RECOMMENDATION**

This matter came on for Hearing before Administrative Law Judge Steve M. Mihalchick at 9:30 a.m. on April 20, 2004, at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota.

James P. Barone, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101-2130, appeared for the Minnesota Higher Education Services Office (MHESO). There was no appearance by Respondent, in person or by counsel.

In a letter to the Manager of MHESO Private Career School Licensing dated April 16, 2004, Respondent informed Mr. Barone that the Alexander Institute had officially ceased teaching classes effective April 7, 2004, and Respondent requested that the hearing be canceled. Respondent also requested that the Institute's two remaining students be allowed to complete their coursework by May 20, 2004, and graduate.

NOTICE

This report is a recommendation, not a final decision. MHESO will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61 (2002), the agency shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the agency must consider the exceptions in making a final decision. Parties should contact the agency at the address above to learn the procedure for filing exceptions or presenting argument.

If the agency fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the agency, or upon the expiration of the deadline for doing so. The agency must notify the parties and the Administrative Law Judge of the date on which the record closes.

Pursuant to Minn. Stat. § 14.62, subd. 1 (2002), the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

STATEMENT OF ISSUES

1. Does Respondent, under Minn. Stat. § 141.25, subd. 7(1), have a sound financial condition with sufficient resources available to:

- a. meet the school's financial obligations;
- b. refund all tuition and other charges, within a reasonable period of time . . .;
- c. provide adequate service to its students and prospective students; and
- d. maintain and support the school?

2. Does Respondent, under Minn. Stat. § 141.25, subd. 7(4), have the administrative staff to provide necessary services to students?

3. Has Respondent, under Minn. Stat. § 141.29, subd. 3(c), been provided with a reasonable time to correct the above-alleged deficiencies and failed to do so?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On March 19, 2004, the Notice and Order for Hearing in this matter was served by first class mail upon Rome Alexander and Steve Brinkman, the Alexander Institute, 235 East 6th Street, St. Paul, MN 55101, the last known address on file with MHESO. It notified Respondent of the Hearing scheduled for April 20, 2004. The Notice was not returned to MHESO.

2. On April 20, 2004, Respondent failed to appear at the Hearing, or to notify the Administrative Law Judge that a representative of the corporation was unable to appear or needed a continuance. Respondent's letter of April 16, 2004, to MHESO's Private Career School Licensing Manager does not constitute such notice to the Administrative Law Judge.

3. The Notice and Order for Hearing informed Respondent that if it failed to appear at the Hearing, the allegations against the Institute, set forth in the Notice and Order for Hearing could be taken as true, and a default order could be issued.

4. Because Respondent Alexander Institute failed to appear, the school is in default.

5. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice and Order for Hearing are taken as true and incorporated into these Findings of Fact.

6. MHESO indicated it will likely delay entry of any default judgment until May 20, 2004, to accommodate the two remaining students at the Alexander Institute.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. MHESO and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and 141.29, subd. 2.

2. MHESO has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. Pursuant to Minn. Stat. § 141.29, subd. 1(1) and (5), MHESO may refuse to renew, revoke, or suspend a license for violation of any provisions of sections 141.21 to 141.35 or any rule adopted by the office, or for the existence of any circumstance that would be grounds for the refusal of a renewal license under section 141.25.

4. The facts set out in the Notice and Order for Hearing show that the Alexander Institute does not have a sound financial condition with sufficient resources available to meet the school's financial obligations, refund all tuition and other charges within a reasonable amount of time, provide adequate service to its students and prospective students, or maintain and support the school, in violation of Minn. Stat. § 141.25, subd. 7(1).

5. The facts set out in the Notice and Order for Hearing show that, under Minn. Stat. § 141.25, subd. 7(4), the Alexander Institute does not have the administrative staff to provide necessary services to students.

6. The facts set out in the Notice and Order for Hearing show that, under Minn. Stat. § 141.29, subd. 3(c), the Alexander Institute has been provided with a reasonable time to correct the deficiencies described above, but has failed to do so.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that MHESO take disciplinary action against the Private Career School License of Respondent.

Dated: April 29, 2004

s/Steve M. Mihalchick

STEVE M. MIHALCHICK
Administrative Law Judge

Reported: Default